

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi- 110 001.

No.464/L&O/2008/EPS

Dated: 12th November, 2008

To

The Chief Electoral Officers of
All States/UTs.

Subject:- Follow up action on electoral offences - Regarding

Sir,

During the general elections to the Lok Sabha and State Legislative Assemblies, some incidents of booth capturing or other incidents of violence, impersonation etc. are committed to mar the sanctity of election. Your attention in this connection is invited to the Para IX A of IPC (Sub Section, 171 A to 171 H) and Chapter III of Part VII (Sections 125 to 136) of the Representation of the People Act, 1951 making some of these acts of the commission and omission by specific electoral offences. Among others, booth capturing has been defined in section 135A of the R.P. Act, 1951 and is a specific electoral offence and also a corrupt practice under section 123 (8) of the said Act. Proper FIRs in the case of cognizable offences and complaints before the Competent Magistrate in other cases are required to be lodged and matter investigated promptly and expeditiously as per instruction contained in the Commission's Message No. 464/89/(L&O) dated 21st November 1989 which are reproduced below:-

"Election Authorities responsible for conduct of poll should make necessary arrangement for ensuring free and fair elections including maintenance of law and Order in the constituency as also at polling stations on the date of poll. Authorities concerned must also identify sensitive constituencies and sensitive areas needing special attention and taken appropriate measures to deal with any situation affecting free and fair poll. Commission would take serious view of any incident of booth capturing or any other malpractice or irregularity taking place at any polling station which mars sanctity of election and casts adverse reflection not only on polling personnel but also on police authorities. Any such incident means some failure either in anticipation of problem or in tackling it. Booth capturing has now been defined statutorily in Section 135A of the Representation of the People Act, 1951. Further, booth capturing is now a specific electoral offence under said Section 135A and also corrupt practice under Section 123(8). In any case of booth capturing, Presiding Officer should be required to make report forthwith to returning officer either direct or through sector magistrate etc. Police authorities posted at the polling stations who are responsible for avoiding any such incident should also be required to make report forthwith to their superiors as also to Returning Officers. Proper FIRs should be lodged and matter investigated promptly and expeditiously. Any inaction on the part of the

election authorities and other investigating agencies will be viewed seriously. It may not be out of place to mention that under Section 28A of the Representation of the People Act, 1951, all officers including police authorities designated for the time being by State Government for conduct of elections shall be deemed to be on deputation to the Commission and shall be subject to control, superintendence and discipline of the Commission during election period upto the date of declaration of result. Above instructions of the Commission may kindly be brought to notice of all authorities concerned under intimation to Commission."

2. The Commission desires to take stock of all such criminal cases lodged in the course of conduct of general elections and disciplinary cases initiated against election related officers. The Commission has directed that the last date for launching of prosecution of all cases relating to electoral offences and initiation of disciplinary proceedings against delinquent officials should be one month from the date of completion of general elections.
3. Similarly, the Commission has fixed the same period by which enquiries on complaints received by you direct or referred by the Commission during the conduct of the General Elections, should be completed.
4. In view of above, you are requested to draw a suitable plan of action to monitor the progress of all FIRs lodged in connection with the recently concluded general elections and also to ensure completion of enquiries on complaints with the deadlines fixed. It may be noted that no such case should be withdrawn by the State Govt. without the prior concurrence of the Election Commission.
5. Monthly report as in enclosed Proforma about the number of cases in which FIRs have been lodged and disposal of complaints should be furnished to the Commission.
6. Kindly acknowledge receipt.

Yours faithfully,

(SHANGARA RAM)
PRINCIPAL SECRETARY

Copy to the Zonal Sections concerned. They are requested to follow up the matter. Acknowledgment to the letter should be retained by them.

(SHANGARA RAM)
PRINCIPAL SECRETARY

POSITION AS ON -----

**PROGRESS REPORT ON FIRS AND COMPLAINTS LODGED
DURING GENERAL ELECTION TO LEGISLATIVE ASSEMBLY
OF ----- HELD IN -----**

Name of District	No. & Name of Constituency	Particulars of FIRs		Gist of Complaint	Progress made in prosecution of persons
		Date	Police Station		
1.	2.	3.	4.	5.	6.